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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/589,479	08/14/2006	William Veronesi	60469-092PUS1;PA-000.0519	8352
64779 7590 04/23/2008 CARLSON GASKEY & OLDS 400 W MAPLE STE 350 BIRMINGHAM, MI 48009				
EXAMINER				
WEST, JEFFREY R				
ART UNIT		PAPER NUMBER		
2857				
MAIL DATE		DELIVERY MODE		
04/23/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action
Before the Filing of an Appeal Brief

Application No.

10/589,479

Applicant(s)

VERONESI ET AL.

Examiner

JEFFREY R. WEST

Art Unit

2857

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 04 April 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Jeffrey R. West/
Primary Examiner, Art Unit 2857

Applicant argues:

Applicant respectfully traverses the rejections under 35 U.S.C. §103 of claims 16 and 20. Both rejections rely upon the Barrett, et al. reference. The Examiner contends that the Barrett, et al. reference discloses "determining a rate of degradation of an individual tension member for a selected load by monitoring how the degradation varies over time based on how much of the selected load is carried by each tension member." (See, e.g., page 3 of the Office Action). Applicant respectfully disagrees.

The only statement in the Barrett, et al. reference regarding degradation is found in column 3, lines 10-16. Specifically, the Barrett, et al. reference states, "By measuring the load in each tension member 28, individually, any stretching of [sic, or] degradation of the tension members 28 can also be sensed as the load carried by each tension member 28 varies over time." There is nothing in that statement that indicates any determination of a rate of degradation. There is only mention of sensing degradation. Determining a rate of degradation is a different thing than sensing degradation. Additionally, the load in the Barrett, et al. reference is described as varying over time. It does not describe "how the degradation varies over time" as suggested by the Examiner in the Office Action. There is a distinction between a load varying over time and degradation varying over time.

The Examiner disagrees and instead asserts that the term "rate" refers to a quantity measured with respect to another measured quantity. In the Barrett reference, the degradation is measured with respect to the measured load and therefore the measured degradation is a rate of degradation.

Additionally, since the degradation is measured with respect to the measured load and since the load is measured with respect to time, one having ordinary skill in the art would recognize that the degradation is measured with respect to time.

For these reasons, the Examiner maintains that Barrett teaches an elevator load weighting device including means for positioning a selected load on a plurality of tension members (column 2, lines 1-6 and column 3, lines 4-9) and determining a rate of degradation of an individual tension member for a selected load by monitoring how the degradation varies over time based on how much of the selected load is carried by each tension member (column 3, lines 10- 16).

/JRW/